

CHAPTER 11

CHARTER SCHOOLS

Authority

N.J.S.A. 18A:36A-1 et seq., specifically 18A:36A-18.

Source and Effective Date

R.1997 d.322, effective August 4, 1997.
See: 29 N.J.R. 1585(a), 29 N.J.R.3492(a).

Executive Order No. 66(1978) Expiration Date

Chapter 11, Charter Schools, expires on August 4, 2002.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 6A:11-1.1 Purpose
- 6A:11-1.2 Definitions

SUBCHAPTER 2. APPLICATION AND APPROVAL, REPORTING, RENEWAL, PROBATION AND REVOCATION, APPEAL AND AMENDMENT PROCESSES

- 6A:11-2.1 Application and approval process
- 6A:11-2.2 Reporting
- 6A:11-2.3 Renewal of charter
- 6A:11-2.4 Probation and revocation of charter
- 6A:11-2.5 (Reserved)
- 6A:11-2.6 Amendment to charter

SUBCHAPTER 3. SCHOOL ETHICS ACT

- 6A:11-3.1 Board of trustees and administrators

SUBCHAPTER 4. TRANSPORTATION

- 6A:11-4.1 General requirements
- 6A:11-4.2 Transportation of resident students
- 6A:11-4.3 Transportation of non-resident students

SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF

- 6A:11-5.1 Certification

SUBCHAPTER 6. STREAMLINE TENURE

- 6A:11-6.1 Tenure acquisition
- 6A:11-6.2 Filing of and response to tenure charges
- 6A:11-6.3 Arbitration

SUBCHAPTER 7. FINANCIAL OPERATIONS

- 6A:11-7.1 Per pupil calculations, notification and caps
- 6A:11-7.2 Enrollment counts, payment process and aid adjustments
- 6A:11-7.3 Financial requirements

SUBCHAPTER 8. PROGRAM IMPLEMENTATION

- 6A:11-8.1 Local education agency
- 6A:11-8.2 Pupil records

SUBCHAPTER 1. GENERAL PROVISIONS

6A:11-1.1 Purpose

(a) The purpose of this chapter is to provide the rules to govern the implementation of the Charter School Program Act, N.J.S.A. 18A:36A. The rules define the processes for establishing and operating charter schools; transporting students; complying with the School Ethics Act (N.J.S.A. 18A:12-21 et seq.); certifying classroom teachers, principals and professional support staff; applying streamline tenure for teaching staff members, janitors and secretaries; and conducting the financial operations of the charter schools.

(b) The new rules set out the requirements for applying for a charter and operating a school when a charter is awarded by the Commissioner of Education. In addition, these rules affect students who attend the charter schools, the parents and legal guardians of these students, the district boards of education where these students reside, the district boards of education in which the charter schools are physically located and the people who will serve on the boards of trustees and on the staffs of the charter schools.

6A:11-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meaning, unless the content clearly indicates otherwise.

“Annual review” means the yearly assessment by the Commissioner as to whether the charter school is meeting the goals of its charter.

“Application” means the *New Jersey Charter Schools Application* which includes, but is not limited to, a description of the areas listed in N.J.S.A. 18A:36A-5 and N.J.A.C. 6A:11-2.1(b).

“Approval of a charter” means an endorsement by the Commissioner following the review of an eligible application by the Department of Education and contingent upon the receipt of necessary documentation in accordance with N.J.A.C. 6A:11-2.1(g).

“Average daily enrollment” for the purpose of determining the adjusted State, local and Federal aid means the sum of the days present and absent of all pupils enrolled in the register or registers of the program for which the aid is being determined divided by the number of days school was actually in session.

“Board of trustees” means the public agents authorized by the State Board of Education to supervise and control a charter school.

“Categorical aid attributable to the student” means special education aid, bilingual aid, early childhood program

aid, demonstrably effective program aid, instructional supplement aid and distance learning network aid.

“Certification” means the endorsement of a person who is employed by a district board of education or a charter school to perform duties that are regulated by N.J.A.C. 6:11 and N.J.S.A. 18A:26-2.

“Charter school rate” means a presumptive amount equal to 90 percent of the “local levy budget per pupil for the specific grade level” unless the Commissioner approves a percentage other than the presumptive 90 percent and which cannot exceed 100 percent of the “local levy budget per pupil for the specific grade level.”

“District of residence” means the district board of education in which a charter school facility is physically located; if a charter school is approved with a “region of residence” of contiguous district boards of education, that region shall be the charter school’s “district of residence.”

“Eligible applicant” means teaching staff members, parents of children attending the schools of the district board(s) of education, a combination of teaching staff members and parents, or an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district board(s) of education.

“Final granting of a charter” means the notification in which the Commissioner makes the charter effective as a result of all required documentation being submitted by the charter school and approved by the Department of Education in accordance with N.J.A.C. 6A:11-2.1(g) and (h).

“GAAP” means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State Board of Education pursuant to N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2A.

“Lead person” means the person(s) who perform(s) the organizational tasks necessary for the operation of a charter school; and where a group of individuals shares these organizational tasks, the person designated as responsible for completion of the tasks required by these rules is the lead person.

“Local levy budget per pupil for the specific grade level” starting with the 1998-99 school year means the “program budget per pupil.” For the 1997-98 school year, “local levy budget per pupil for the specific grade level” means the lower of either the “program budget per pupil” or the T&E amount plus the T&E flexible amount (maximum T&E amount) weighted for kindergarten, elementary (grades 1 through 5), middle school (grades 6 through 8) and high school (grades 9 through 12) respectively as set forth in N.J.S.A. 18A:7F-12 for the applicable budget year. “Local levy budget per pupil for the specific grade level” is based on the prebudget year of the district of residence and non-resident district(s).

“Non-resident district” means a district board of education outside the district of residence of the charter school.

“Non-resident student” means a student attending a charter school from a district board of education outside the district of residence of the charter school.

“One-way mileage” from the student’s home to the charter school means the shortest route along public roadways and/or public walkways from the entrance of the student’s residence nearest such public roadway or public walkway to the nearest public entrance of the charter school as set forth in N.J.A.C. 6:21-1.3(b).

“Panel of six permanent arbitrators” means the group which shall hear all streamline tenure cases. Three arbitrators shall be chosen by the New Jersey Education Association (NJEA) and three by the New Jersey School Boards Association (NJSBA). All arbitrators shall be from either the permanent panel of arbitrators of the American Arbitrators Association or the permanent panel of arbitrators of the Public Employees Relation Commission (PERC).

“Prebudget year” means the school fiscal year preceding the year in which the school budget is implemented.

“Program budget” based on the prebudget year means the sum inflated by the CPI rate published most recent to the budget calculation of (1) core curriculum standards aid, (2) supplemental core curriculum standards aid, (3) stabilization aid (including supplemental stabilization aid and supplemental school tax reduction aid), (4) designated general fund balance, (5) miscellaneous local general fund revenue and (6) the district’s general fund tax levy. For the 1997-98 school year, “program budget” based on the prebudget year means the local levy budget (foundation aid, transition aid and local tax levy) in the district of residence and non-resident district’s 1996-97 original approved budget inflated by three percent.

“Program budget per pupil” means the apportionment among the district of residence and non-resident district’s October 15 weighted resident enrollment consistent with N.J.S.A. 18A:7F-12 by grade category and then divided by the same districts’ resident enrollment by grade as of October 15. For the 1997-98 school year, the program budget is apportioned among the district’s October 15, 1996 weighted resident enrollment consistent with N.J.S.A. 18A:7F-12 by grade category which is then divided by the district’s resident enrollment by grade as of October 15, 1996.

“Projected enrollments” mean the estimated total enrollments of both the district of residence and non-resident district(s) as delineated by the eligible applicant in the *New Jersey Charter Schools Application*.

“Region of residence” means contiguous district boards of education in which a charter school operates and shall be the charter school’s “district of residence.”

“Renewal” means the granting of the continuation of a charter for a five-year period by the Commissioner following a comprehensive review conducted by the Commissioner.

“Resident student” means a student who resides in the area served by the district board of education that is the same as the district of residence of the charter school.

“Revocation” means the withdrawal of a charter of a school from the board of trustees by the Commissioner.

“School Ethics Act” means the statute N.J.S.A. 18A:12-21 et seq. designed to set standards to guide the conduct of school officials and ensure maintenance of those standards in order to preserve public confidence in the integrity of elected and appointed school board members and administrators.

“School year” means July 1 to June 30 of any given academic year.

“Streamline tenure” means the tenure process for all charter school teaching staff members, janitors and secretaries who are either newly employed in a charter school or who are employed in a charter school while on leave from district boards of education.

“Streamline tenure removal” means the process by which an employee who has obtained streamline tenure can be dismissed or reduced in compensation.

“T&E amount” means the established cost per elementary pupil as defined by N.J.S.A. 18A:7F-3.

“T&E program budget” means the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, designated general fund balance, miscellaneous local general fund revenue and that portion of the district’s local levy that supports the district’s T&E budget as defined by N.J.S.A. 18A:7F-3.

“T&E range” means the range of regular education spending which shall be considered thorough and efficient as defined by N.J.S.A. 18A:7F-3. The range is in terms of T&E budget spending per elementary pupil and is delineated by alternatively adding to and subtracting from the T&E amount the T&E flexible amount to establish the minimum T&E budget and maximum T&E budget when applied to each district’s weighted resident enrollment.

“Weighted resident enrollment” means the differentials in costs based on the efficiency standards established pursuant to N.J.S.A. 18A:7F-4(b) of providing education at the kindergarten, elementary (grades 1 through 5), middle school (grades 6 through 8) and high school levels (grades 9 through 12) which are determined by dividing the elementary cost per pupil into each category and applying the weights to resident enrollment in each category pursuant to N.J.S.A. 18A:7F-13.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Rewrote “Local levy budget per pupil for the specific grade level” definition; and inserted “inflated by the CPI rate published most recent to the budget calculation” preceding “of (1)” in the “Program budget” definition.

SUBCHAPTER 2. APPLICATION AND APPROVAL, REPORTING, RENEWAL, PROBATION AND REVOCATION, APPEAL AND AMENDMENT PROCESSES

6A:11-2.1 Application and approval process

(a) The Commissioner, with the authority of N.J.S.A. 18A:36A, may approve, grant or deny an application for a charter after review of the application submitted by an eligible applicant and the recommendation(s) from the district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of the proposed charter school.

(b) An eligible applicant for a charter school must:

1. Complete the *New Jersey Charter Schools Application* which shall be annually disseminated by the Department of Education and which includes a description of the areas listed in N.J.S.A. 18A:36A-5 and a description of the following as each relates to the charter school:

- i. Mission;
- ii. Goals and objectives;
- iii. Founders;
- iv. Student discipline policy and expulsion criteria;
- v. Special populations;
- vi. Transportation;
- vii. Self-evaluation process;
- viii. Insurance; and
- ix. Timetable.

2. If seeking to operate a charter school with a region of residence:

i. Include as founders representatives in accordance with N.J.S.A. 18A:36A-4(a) from each of the contiguous district boards of education that comprise the region; and

ii. Describe its plan to ensure the enrollment of a cross section of the school-age population of the region of residence including racial and academic factors. This plan shall include apportionment of available space from each of the district boards of education that comprise the region of residence.

3. Submit the completed application to the Commissioner of Education and the district board(s) of education or State superintendent(s) of the State-operated school district(s) of the district of residence of the proposed charter school no later than 4:00 P.M. on August 15 in the year prior to starting a charter school. If August 15 falls on a weekend, the applications are due on the first subsequent work day.

(c) Following the review of the applications, the Department of Education may request subsequent information as addenda to the applications.

(d) The Department of Education shall evaluate the addenda.

(e) The district boards of education or superintendents of the State-operated school districts of the districts of residence of the proposed charter schools shall review the applications and addenda.

1. The recommendations of these district boards of education or superintendents of the State-operated school districts shall be forwarded to the Commissioner within 60 days of receipt of the applications.

2. The recommendations of these district boards of education or superintendents of the State-operated school districts shall be forwarded to the Commissioner within 30 days of receipt of the addenda.

(f) The Commissioner shall notify eligible applicants regarding approval or denial of charter schools on or about January 15. The notification to eligible applicants who are not approved as charter schools shall include reasons for the denials.

(g) The Commissioner may approve an application for a charter which shall be effective when all necessary documents and information are received and approved by the Commissioner. The charter school shall submit at a later date documentation not available at the time of the application submission including, but not limited to:

1. Bylaws of the board of trustees;
2. Certificate of incorporation;
3. Identification of its facility and lease, mortgage or title to its facility;
4. Certificate of occupancy issued by the local municipal enforcing official;
5. Sanitary inspection report; and
6. Fire inspection certificate.

(h) All statutorily required documentation shall be submitted to the Department of Education by May 15. The final granting of the charter by the Commissioner shall be effective when all required documentation as listed in (g) above is submitted and approved by the Department of Education.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).
Rewrote (b)2.

Case Notes

The procedure set forth in the regulation was efficient and practical both for the applicant and for the Department and did not prejudice any legitimate objection to the charter school application. In re Grant of Charter School Application of Englewood on Palisades Charter School, 164 N.J. 316, 753 A.2d 687 (N.J. 2000).

Statute governing charter school applications required an application to include a description of and address for the physical facility in which the school would be located, and the State Board of Education could not relax that requirement, via its regulations, in the interest of administrative convenience. In re Grant of Charter School Application of Englewood on Palisades Charter School, 320 N.J. Super. 174, 727 A.2d 15 (N.J. Super. A.D. 1999).

6A:11-2.2 Reporting

(a) The board of trustees of a charter school shall submit an annual report no later than 4:00 P.M. on August 1 following each full school year in which the charter school is in operation to the Commissioner, the respective county superintendent of schools and the district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school. If August 1 falls on a weekend, the annual report is due on the first subsequent work day.

1. The report must include, but is not limited to, a description of the following:

- i. The achievement of the school's mission, goals and objectives of its charter;
- ii. The efficiency in the governance and management of the school;
- iii. The attainment of the *Core Curriculum Content Standards* and the delivery of an educational program leading to high student academic achievement;
- iv. Statewide assessment program results and local assessment results of students;
- v. The degree of parental and community involvement in the school;
- vi. The school's public relations and outreach efforts; and
- vii. The student admissions policies and staff recruitment plan.

2. The report must include a copy of the following:

i. A comprehensive annual financial report including a balance sheet, an operational statement of revenues and expenditures and a cash flow analysis;

ii. The annual sanitary inspection report; and

iii. The annual fire inspection certificate.

(b) The board of trustees of a charter school shall make the annual report available to the parents or guardians of the students enrolled in the charter school.

(c) The district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school may submit comments regarding the annual report of the charter school to the Commissioner by October 1.

6A:11-2.3 Renewal of charter

(a) The Commissioner may grant a renewal of a charter following the initial four-year charter. The renewal shall be:

1. Based upon the comprehensive review of the school by the Commissioner including, but not limited to, the reviews of a charter school's annual reports, comments on the annual reports from the district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of the charter school and monitoring of the charter school by the county superintendent.

2. For a period of five years.

6A:11-2.4 Probation and revocation of charter

(a) The Commissioner may place a charter school on probationary status for a period of 90 days to allow the implementation of a remedial plan upon a finding that the charter school is not operating in compliance with its charter, statutes or regulations.

1. The Commissioner shall determine the date on which the probationary status will begin and notify the charter school of such date.

2. The charter school must submit a remedial plan to the Commissioner within 15 days from the receipt of the notice of probationary status.

3. The charter school must provide the specific steps that it shall undertake to resolve the condition(s) not fulfilled and/or the violation(s) of its charter.

4. The Commissioner may remove the probationary status of a charter school if the remedial plan is implemented and the causes for the probationary status are corrected.

5. The Commissioner may grant an extension to the probationary status where warranted and extend the probationary period for an additional 90 days if the charter school has implemented its remedial plan but needs additional time to complete the implementation of its corrections.

(b) The Commissioner may revoke a school's charter following review by the Department of Education for one or more of the following reasons:

1. Any condition imposed by the Commissioner in connection with the granting of the charter which has not been fulfilled by the school; or

2. Violation of any provision of its charter by the school.

3. Failure of the remedial plan to correct the conditions which caused the probationary status.

(c) The Commissioner will notify a charter school in writing of the revocation and may allow a charter school up to a maximum of 60 days from the receipt of the revocation notice from the Commissioner to cease its operations.

6A:11-2.5 (Reserved)

Repealed by R.2000 d.229, effective June 5, 2000.

See: 32 N.J.R. 749(a), 32 N.J.R. 2049(b).

Section was "Charter appeal process".

6A:11-2.6 Amendment to charter

(a) A charter school may apply to the Commissioner for an amendment to the charter.

1. The board of trustees of a charter school shall submit in the form of a board resolution the amendment request to the Commissioner and the district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school.

2. The amendment shall not change the mission, goals and objectives of a charter school.

(b) The Department of Education shall determine whether the amendments are eligible for approval and shall evaluate the amendments based on N.J.S.A. 18A:36A-1 et seq. and this chapter.

(c) The district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school may submit comments regarding the amendment request to the Commissioner within 21 days of receipt of the resolution of the board of trustees.

(d) The Commissioner may approve or deny amendment requests of charter schools and shall notify charter schools of decisions. If approved, the amendment becomes effective immediately unless a different effective date is established by the Commissioner.

Amended by R.1998 d.292, effective June 1, 1998.

See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

Rewrote (a) and (c); and in (d), removed a August 25th deadline for notification of decisions by the Commissioner.

SUBCHAPTER 3. SCHOOL ETHICS ACT

6A:11-3.1 Board of trustees and administrators

(a) For the purposes of implementation of the Charter School Program Act, the members of the board of trustees

of a charter school shall be "school officials" as defined in the School Ethics Act (N.J.S.A. 18A:12-23). The trustees shall comply with the provisions of the School Ethics Act and the rules promulgated pursuant thereto at N.J.A.C. 6A:28.

(b) Any employee who is responsible for making recommendations regarding hiring or the purchase or acquisition of any property or services by a charter school shall be an administrator as defined in the School Ethics Act (N.J.S.A. 18A:12-23) and the rules promulgated pursuant thereto at N.J.A.C. 6A:28.

Amended by R.2000 d.139, effective April 3, 2000.
See: 31 N.J.R. 4166(a), 32 N.J.R. 1189(a).

In (a) and (b), changed N.J.A.C. references; and deleted a former (c).

SUBCHAPTER 4. TRANSPORTATION

6A:11-4.1 General requirements

(a) A district board of education shall have the following responsibilities for transportation:

1. Transportation or aid in lieu of transportation shall be provided pursuant to N.J.S.A. 18A:39-1 et seq. to students in kindergarten through grade eight who live more than two miles and to students in grades nine through 12 who live more than two and one-half miles from the charter school that they attend. Transportation shall not be required for students attending a school other than a public school when the only transportation provided by districts in which the students reside is for school children transported pursuant to N.J.S.A. 18A:46-1 et seq. or for students transported to a vocational, technical or other public school offering a specialized program. A charter school shall be considered a public school offering a specialized program.

2. The transportation of students to and from a charter school shall be the responsibility of the district board of education of the school district in which each student resides.

3. The district board of education shall provide transportation in accordance with the charter school calendar.

4. By August 1, the district board of education of the school district in which each student resides shall notify the parents or legal guardians and the lead person of the charter school regarding the determination of the request for transportation services.

(b) A charter school shall have the following responsibilities for transportation:

1. The lead person of the charter school shall notify each student's district board of education, in writing, of the need for transportation at the time of each student's registration in the charter school or by May 15 preceding the school year in which transportation services are to be provided, whichever is later. This notification shall include the student's name, address, grade, one-way mileage from the student's home to the charter school and the name of the last school of attendance if any.

2. The lead person of the charter school shall submit the school calendar to the district board(s) of education responsible for providing transportation services by May 15 preceding the school year in which transportation is being requested.

3. Between January 1 and January 10 and between May 1 and May 10 of each year, the lead person of the charter school shall certify, on forms prescribed by the Commissioner, the students that were enrolled for the first half and second half of the academic year respectively. The certification forms shall be returned to each student's district board of education by January 15 certifying the student's attendance for the first half of the academic year and by May 15 certifying the student's attendance for the second half of the academic year.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).
Rewrote (a)1.

6A:11-4.2 Transportation of resident students

The transportation of students to and from a charter school who reside in the district of residence in which the charter school is located shall be provided on the same terms and conditions as transportation is provided to students attending the schools of the district board(s) of education.

6A:11-4.3 Transportation of non-resident students

(a) The district board of education of the school district in which each student resides shall provide transportation of students to and from a charter school who reside outside the district of residence in which the charter school is located within an annual maximum statutorily established amount per student expenditure in accordance with N.J.S.A. 18A:39-1 to be made in two installments.

1. If such transportation will exceed this maximum allowable expenditure, then the parents or legal guardians of each student may choose to pay the amount over the annual maximum statutorily established amount with the district board of education in which the student resides being required to provide transportation or the parents or legal guardians of each student shall be entitled to the annual maximum statutorily established amount as aid in lieu of transportation. The parents or legal guardians of each student shall notify in writing their district board of education of their choice of paying the additional amount or of receiving aid in lieu of transportation.

2. Once the parents or legal guardians of each student have notified their district board of education that they agree to pay the amount over the annual maximum statutorily established amount, the parents or legal guardians are no longer entitled to receive aid in lieu of transportation for that school year.

3. The payment of aid in lieu of transportation may be adjusted for late registration or early withdrawal.

4. The district board of education of the school district in which each student resides shall pay aid in lieu of transportation for each half of the academic year after the certification form verifying attendance is submitted by the lead person of the charter school and the voucher for payment, supplied to the parents or legal guardians by each student's district board of education, is properly completed and returned to each student's district board of education. A district board of education shall not be required to pay aid in lieu of transportation when it receives the voucher for payment after the close of the fiscal year.

SUBCHAPTER 5. CERTIFICATION REQUIREMENTS FOR STAFF

6A:11-5.1 Certification

(a) All classroom teachers, principals and professional support staff employed by a charter school must hold appropriate New Jersey certification in accordance with N.J.A.C. 6:11-3.1.

(b) A charter school may request alteration in the "alternate route" certification program for novice teachers provided a candidate is eligible to receive a "Certificate of Eligibility" pursuant to N.J.A.C. 6:11-5.1(a) and (b).

SUBCHAPTER 6. STREAMLINE TENURE

6A:11-6.1 Tenure acquisition

All teaching staff members, janitors and secretaries shall acquire streamline tenure in a charter school after three

consecutive academic years, together with employment at the beginning of the next succeeding academic year, in accordance with the tenure acquisition criteria as set forth in N.J.S.A. 18A:28-5(b), 18A:28-6 and 18A:17-2(b)2.

6A:11-6.2 Filing of and response to tenure charges

(a) Once streamline tenure is acquired, an employee of a charter school shall not be dismissed or receive reduced compensation except for inefficiency, incapacity, conduct unbecoming or other just cause.

(b) In all instances of the filing and certification of streamline-tenure charges, except inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charges, executed under oath, accompanied by a supporting statement of evidence with the board of trustees.

2. The board of trustees shall transmit the charges to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the streamline-tenure charges.

4. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.

5. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

6. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

7. If the affected employee wishes to contest the certified charges filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

(c) In instances of the filing and certification of streamline-tenure charges for inefficiency, the following procedures and timelines shall be observed:

1. The lead person of the charter school shall file written charges, executed under oath, accompanied by a supporting statement of evidence with the board of trustees.

2. The board of trustees shall transmit the charges to the affected streamline-tenured employee within three work days of the date that they were filed with the board of trustees. Proof of mailing or hand delivery shall constitute proof of transmittal.

3. Upon completion of the 90-day corrective action period, the lead person of the charter school shall notify the board of trustees in writing whether the inefficiencies were corrected.

4. The board of trustees shall transmit the notification to the affected streamline-tenured employee within three work days of the date that it was noticed. Proof of mailing or hand delivery shall constitute proof of transmittal.

5. The affected tenured employee shall have the opportunity to respond to the charge(s) in a written statement of position and a written statement of evidence, both of which shall be executed under oath and submitted to the board of trustees within 15 days of receipt of the inefficiency charges.

6. Upon receipt of the affected employee's response, the board of trustees shall determine within 30 days whether there is probable cause to credit the evidence in support of the charge(s) and whether such charge(s), if credited, are sufficient to warrant a dismissal or reduction of compensation.

7. The board of trustees must notify, in writing, the affected employee of its determination within 15 days. Proof of mailing or hand delivery shall constitute proof of notice.

8. If the board of trustees determines that there is probable cause to credit the charge(s), the board of trustees shall certify the charge(s) to the Commissioner.

9. If the affected employee wishes to contest the certified charges filed against him or her, he or she shall do so in writing to the Commissioner within 15 days of receipt of the board of trustees' determination.

6A:11-6.3 Arbitration

(a) If the streamline tenured employee contests the charges, an arbitrator from a panel of six permanent arbitrators shall be assigned by the Commissioner to determine the case. All employees who acquire streamline tenure in a charter school shall be subject to dismissal or a reduction in compensation only upon the determination of an arbitrator.

1. Arbitrators on the panel shall be listed in alphabetical order and assigned to hear streamline tenure cases on a rotating basis in the order that cases are filed with the Commissioner's office.

2. The hearing shall be held before the arbitrator within 30 days of the Commissioner's assignment of the arbitrator to the case.

3. All necessary discovery procedures shall be completed 15 days prior to the hearing. At least 10 days prior to the hearing, information and witness lists shall be exchanged between the parties.

4. The arbitrator shall render a decision within 20 days of the closing of the hearing.

(b) The decision of the arbitrator is final and binding and cannot be appealed to either the Commissioner or the State Board of Education. Said decision shall be subject to judicial review and enforcement as provided pursuant to N.J.S.A. 2A:24-7 through 24-10.

(c) The board of trustees of the charter school shall forward arbitration decisions to the State Board of Examiners.

SUBCHAPTER 7. FINANCIAL OPERATIONS

6A:11-7.1 Per pupil calculations, notification and caps

(a) The Commissioner shall prepare a report no later than February 15 of the prebudget year for the district of residence and non-resident district(s) of an approved charter school establishing a "local levy budget per pupil for the specific grade level" at the charter school rate along with the local and State shares, categorical aids per student and any Federal funds attributable to the students based on projected enrollments to be used by the district of residence and non-resident district(s) for budget purposes for the subsequent year. The established "local levy budget per pupil for the specific grade level" will not be adjusted. The number of students enrolled in the charter school will be adjusted based on average daily enrollment for aid purposes throughout the school year in accordance with the prescribed adjustments listed in N.J.A.C. 6A:11-7.2.

(b) The "local levy budget per pupil for the specific grade level" shall be delineated between local share as defined in (b)1 below and State share as defined in (b)3 below.

1. For the 1997-98 school year, the "local share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the general fund tax levy of the district of residence's or non-resident district's budget. In the following years, the "local share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the following elements of the district of residence's or non-resident district's budget:

- i. Designated general fund balance;
- ii. Miscellaneous local general fund revenue; and
- iii. General fund tax levy.

2. For the 1997-98 school year only, the general fund tax levy shall be determined as follows: If the "local levy budget per pupil for the specific grade level" is the program budget, then the local share per pupil for the specific grade level at the charter school rate shall be that part of the program budget which is supported by the general fund tax levy. If the "local levy budget per pupil for the specific grade level" is the maximum T&E amount, then the local share per pupil for the specific grade level at the charter school rate shall be that part of the maximum T&E amount which is the portion of the general fund tax levy which supports the district of residence's or non-resident district's maximum T&E amount.

3. For the 1997-98 school year, the "State share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the following elements of the district of residence's or non-resident district(s)' budget(s): foundation aid and transition aid.

4. For the following years, the "State share per pupil for the specific grade level" shall be that part of the "local levy budget per pupil for the specific grade level" which is supported by the following elements of the district of residence or non-resident district(s)' budget(s):

- i. Core curriculum standards aid;
- ii. Supplemental core curriculum standards aid; and
- iii. Stabilization aid (including supplemental stabilization aid and supplemental school tax reduction aid).

(c) The non-resident district's "local levy budget per pupil for the specific grade level" paid to a charter school shall be the lower of either the non-resident district's "local levy budget per pupil for the specific grade level" or the district of residence's "local levy budget per pupil for the specific grade level."

(d) If a charter school has a region of residence as its district of residence as defined in N.J.A.C. 6:11A-1.2, the "local levy budget per pupil for the specific grade level" shall be calculated as follows:

1. For the first school year, the average will be based on a projected charter school student population that reflects the relative school population of all the district boards of education in the district of residence.

2. In subsequent years, the average will be based on the actual charter school student enrollment of the prebudget year from all the district boards of education in the district of residence.

(e) A charter school can petition the Commissioner in its *New Jersey Charter Schools Application* for year one of its charter or no later than February 19 of the prebudget year for subsequent years of its charter for a charter school rate greater than the 90 percent presumptive amount or the rate as previously approved by the Commissioner. A charter

school must justify a budget above the presumptive 90 percent by providing a separate accounting and narrative in support of a higher rate and notify the district of residence and/or non-resident district(s). A copy of the petition and justification must be sent to all the district boards of education comprising the region of residence.

(f) The district board(s) of education or superintendent(s) of the State-operated school district(s) of the district of residence of a charter school may submit comments regarding the charter school's justification of a budget above the presumptive 90 percent to the Commissioner.

Amended by R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

In (b)2, substituted "For the 1997-98 school year only," for "In all school years".
Petition for Rulemaking.
See: 31 N.J.R. 2006(a), 31N.J.R. 2650(a).

6A:11-7.2 Enrollment counts, payment process and aid adjustments

(a) In order for a student to apply for enrollment in an approved charter school, the district board of education in which the student resides must process the registration of the student for the subsequent school year upon submission. All registrations shall be processed in a timely manner by the district board of education, including the assessment of residency.

(b) The charter school shall not exceed its average daily enrollments in the subsequent school year by the projected enrollment count in the *New Jersey Charter Schools Application* submitted on any given year and approved by the Commissioner.

(c) A district board of education shall pay to a charter school the following categorical aids in the amount that the district board of education receives in that categorical aid program which is attributable to a resident student enrolled in that charter school if that charter school student is receiving appropriate categorical services:

- 1. Special education aid;
- 2. Bilingual aid;
- 3. Instructional supplement aid; and
- 4. Distance learning network aid.

(d) A district board of education that receives early childhood program aid and/or demonstrably effective program aid must pay to a charter school the amount of that aid attributable to a resident student attending that charter school where:

- 1. The charter school has a concentration of low-income students that is equal to or greater than 20 percent; and
- 2. The resident student is receiving appropriate services to be funded through that type of aid.

(e) A student attending a charter school shall, for demonstrably effective program aid purposes, be regarded by the district board of education as attending the public school that the student would otherwise be attending if the student were not enrolled in the charter school.

(f) The per-pupil amount of early childhood program aid and demonstrably effective program aid to be paid to a charter school shall be the lesser of the per-pupil amount provided to the district board of education for that aid category or the per-pupil amount that would be provided to a district board of education/school with a concentration of low-income pupils that equals the concentration of low-income pupils in the charter school.

(g) All categorical aids paid to a charter school by a district board of education shall be accounted for in the general fund.

(h) A charter school can apply directly to the Commissioner for aid for high cost placements for a special education student in accordance with N.J.S.A. 18A:7F-19(b) and 18A:7F-19(c).

(i) Beginning in the 1998-99 school year, a charter school shall be eligible for rewards under the academic achievement reward program in accordance with N.J.S.A. 18A:7F-29.

(j) The following delineates the payment process and payment adjustments made to a charter school by the district of residence and non-resident district(s) during any given school year.

1. A charter school shall submit a report for the forthcoming school year of enrolled students, based on signed registration forms as of June 1, on a document prepared by the Commissioner for the purposes of determining the actual amount of State, local and Federal aid to which the charter school is entitled starting July 15.

i. This document listing all enrolled students must be forwarded by the charter school to the district of residence and non-resident district(s) by June 5.

ii. The district of residence and non-resident district(s) shall identify the specific categorical aid for which those students qualify and return the information to the charter school by June 15.

iii. The charter school shall transmit to the Commissioner no later than June 18 all enrollment data along with identified categorical aid supplied by the district of residence and non-resident district(s).

iv. The Commissioner shall certify the actual aid(s) due to the charter school as soon as practicable.

2. The district of residence and non-resident district(s) shall pay directly to a charter school the local share per pupil for the specific grade level at the charter school rate as defined in N.J.A.C. 6A:11-1.2 and N.J.A.C. 6A:11-7.1 in 12 equal installments starting July 15 and thereafter on the 15th of each month.

3. The district of residence and non-resident district(s) shall pay directly to the charter school for the following aids in 20 equal installments on the 2nd and 16th of every month starting with September 2 and ending with June 16:

i. The State share per pupil at the charter school rate as defined in 6A:11-1.2;

ii. Categorical aid as defined in 6A:11-1.2; and

iii. Any Federal aid attributable to the student.

4. During the school year, a charter school shall conduct an enrollment count on October 15, February 15 and the last day of the school year. A charter school shall submit each count through a summary school register for the purposes of determining average daily enrollment.

i. The data shall be submitted to the Commissioner three days after the dates of each of the three required enrollment counts and all aid to a charter school will be adjusted accordingly from estimated enrollment counts to average daily enrollments and then adjusted forward to the next four months.

ii. The Commissioner will issue a report for those adjustments to both the charter school and the district of residence and non-resident district(s). If there is a reduction in aid, a charter school shall pay the district of residence or non-resident district(s) on the 15th of the subsequent month. If there is an increase in aid, either the district of residence or non-resident district(s) shall pay a charter school on the 15th of the subsequent month.

5. The district of residence and a charter school and/or the non-resident district and a charter school may change the payment provisions as outlined in (j)2, 3 and 4 above, if mutual agreement can be reached on an alternative payment schedule. Changes in the payment provisions shall remain within the school year. Any change in the payment provisions shall have the written approval through board resolutions of both the board of trustees of the charter school and the district board of education. Copies of such board resolutions shall be filed with the Commissioner on or before July 1 of the school year in which the payment schedule is effective.

6. In the event a district of residence or non-resident district is behind 15 days in the payment schedule in (j)2, 3, 4 and 5 above, a charter school can petition the Commissioner to have the amounts owed to the charter school be deducted from the district of residence's or non-resident district's State aid and paid directly to the charter school.

7. The payment schedule may be adjusted by the Commissioner depending on the effective date of the final granting of the charter.

6A:11-7.3 Financial requirements

(a) The charter school shall comply with generally accepted accounting principles in accordance with N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2A.

(b) The term "temporary debt" as referenced in N.J.S.A. 18A:36A-6(f) shall be the obligation of a charter school for terms no longer than 12 months. The exception will be the first year that a charter school is approved in which the debt obligation of the charter school shall be for terms no longer than January 15 of the preceding school year to June 30 of the first school year of the charter.

(c) A district board of education shall not have to transmit State and local public funds to a charter school until the final granting of the charter by the Commissioner has occurred. If funds are withheld pending the final granting of the charter, all withheld funds shall be paid to the charter school with the first scheduled payment after the effective date of the charter.

(d) A charter school shall be monitored by the Commissioner to insure that the percentage of school funds spent in the classroom is at least comparable to the average percentage of school funds spent in the classroom in all other public schools in the State. The calculation for this percentage in both the annual budget and the Comprehensive Annual Financial Report shall be based on National Center for Educational Statistics as published by the U.S. Department of Education. This percentage shall be considered during the comprehensive review of a charter school by the Commissioner.

(e) After completion of the school year, the district of residence or non-resident district(s) of a charter school may petition the Commissioner for a lower rate for the charter school's "local levy budget per pupil for the specific grade level" if the charter school spends significantly less than budgeted and has accumulated a sizable surplus.

1. In addition, the Commissioner may reduce the rate based on a determination of excessive surplus. The criteria for excess surplus will be determined by the Commissioner considering N.J.S.A. 18A:7F-7.

2. A charter school may submit comments to the Commissioner regarding the petition for a lower rate for the charter school's "local levy budget per pupil for the specific grade level" from the district of residence of the charter school or non-resident district(s).

(f) If, at any time, the Commissioner revokes a school's charter or a charter school becomes insolvent, all assets of the charter school after satisfaction of all outstanding claims by creditors will be distributed equitably by the Commissioner among the participating district of residence and non-resident district(s). A charter school shall include a provision in its bylaws concerning distribution of assets upon revocation or insolvency that is consistent with this rule.

SUBCHAPTER 8. PROGRAM IMPLEMENTATION

Authority

N.J.S.A. 18A:36A-1 et seq.

Source and Effective Date

R.1998 d.292, effective June 1, 1998.
See: 30 N.J.R. 588(a), 30 N.J.R. 2084(a).

6A:11-8.1 Local education agency

A charter school shall be a local education agency only for the purpose of applying for Federal entitlement and discretionary funds.

6A:11-8.2 Pupil records

Pupil records of a student enrolling in a charter school shall be forwarded from a district board of education or superintendent of a State-operated school district to the lead person of the charter school in accordance with N.J.A.C. 6:3-6.5(c)10.